

Provisional Election and Traverse

Applicants thank the Examiner for the telephone conference of May 2, 2002 regarding the second restriction requirement mailed on April 23, 2002 (Paper No. 10). Applicants also thank the Examiner for agreeing to prompt examination of the present application in view of the delay to examination already imposed as discussed in this present response.

In the Office communication mailed April 23, 2002 the Examiner withdrew the previously issued restriction requirement (mailed January 15, 2002) and subsequently issued a new restriction requirement. *See*, Paper No. 10, page 2.

In order to be fully responsive to this entirely new restriction requirement, Applicants provisionally elect, with traverse, the Group encompassing claims 24-75 which are directed to polypeptides encoded by Gene No. 17 (e.g., as indicated in Table 1 on page 58 of the specification). Applicants note that it is not clear, based on this second new restriction requirement, which specific Group number the Examiner intended to assign to the above elected claim group.

Most importantly, however, Applicants respectfully traverse and object to this new restriction requirement because: 1) Applicants previously complied with their duty to make a provisional election; and, 2) Applicants previous provisional election already complies with the requirements imposed in this new election (albeit the Examiner has now recast the claim Group numbers in such manner as to require election of claims via a different Group number). Additionally, as per the telephone call with the Examiner, in order to expedite examination based on the previous restriction requirement Applicants have herein canceled claim 11 (drawn to polypeptides of SEQ ID NO:Y or encoded by ATCC Deposit NO:Z). Accordingly, Applicants respectfully request that the Examiner promptly examine on merits the previously elected Group II claims encompassing pending claims 24-75 which are directed to polypeptides

encoded by Gene No. 17 (e.g. see, Table 1 on page 58 of the specification). *See*, Preliminary Amendment and Provisional Election submitted on February 15, 2002.

Remarks

Applicants reserve the right to pursue the subject matter of claim 11 (and other previously canceled claims) in one or more divisional or continuation applications. Applicants reserve the right to file one or more divisional applications directed to non-elected subject matter should any restriction requirement be made final. In such case, Applicants retain the right to petition from the restriction requirements under 37 C.F.R. § 1.144.

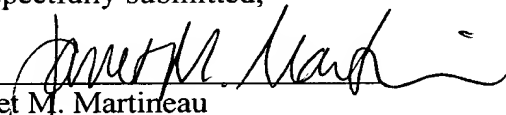
Applicants have also herein amended the specification to show SEQ ID Numbers, inadvertently omitted, for three sequences originally disclosed and described in the present specification at the time it was filed. Applicants also herewith submit a substitute Sequence Listing (paper copy) and floppy diskette (containing the same sequence list in Computer Readable Form) with the sequences described in the original specification and now labeled SEQ ID Numbers 119, 120, and 121. No new matter has been added by these amendments.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

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Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ruben et al.

Application No.: 09/852,659

Group Art Unit: 1636

Filed: May 11, 2001

Examiner: S. Pappu

For: 28 Human Secreted Proteins

Version With Markings To Show Changes Made

(underlining indicates text inserted)

In the Specification:

The first paragraph on page 46 has been amended as follows:

-- In a specific nonexclusive embodiment, polypeptides of the invention, comprise or alternatively consist of, an amino acid selected from the group consisting of the following amino acid sequences:
MLSKAHGCKTALSLGRCPKIREEECEFQERDVCTKDRQCQDNKKCCVFSCGK
KCLDLKQDVCEMPKETGPCLAYFLHWWYDKKDNTCSMFVYGGCQGNNNN
FQSKANCLNTCKNKRFP (SEQ ID NO: 119) and
RCPKIREEECEFQERDVCTKDRQCQDNKKCCVFSCGKKCLDLKQDVCEMPKE
TGPCLAYFLHWWYDKKDNTCSMFVYGGCQGNNNNFQSKANCLNTCKNKR
P (SEQ ID NO: 120). Polynucleotides encoding these polypeptides are also encompassed by the invention as are antibodies that bind one or more of these polypeptides. Moreover, fragments and variants of these polypeptides (such as, for example, fragments as described herein, polypeptides at least 80%, 85%, 90%, 95%, 96%, 97%, 98%, or 99% identical to these polypeptides and polypeptides encoded by the polynucleotide which hybridizes, under stringent conditions, to the polynucleotide encoding these polypeptides, or the complement thereof are encompassed by the invention. Antibodies that bind polypeptides of the invention are also encompassed by the invention. Polynucleotides encoding these polypeptides are also encompassed by the invention. --

The paragraph bridging bottom of page 46 to top of page 47 has been amended as follows:

In a specific nonexclusive embodiment, polynucleotides of the invention, comprise or alternatively consist of, the following polynucleotide sequence:
ATGCTCTCTAAGGCACACGGGTGTAAAACCGCTCTTTCCCTAGGGAGATG
TCCCAAATCAGAGAAGAATGTGAATTCCAAGAAAGGGATGTGTGTACAA
AGGACAGACAATGCCAGGACAACAAGAAGTGTTGTGTCTTCAGCTGCGGA
AAAAAATGTTTAGATCTCAAACAAGATGTATGCGAAATGCCAAAAGAAAC
TGGCCCCTGCCTGGCTTATTTTCTTCATTGGTGGTATGACAAGAAAGATAA
TACTTGCTCCATGTTTGTCTATGGTGGCTGCCAGGGAAACAATAACAACCTT
CCAATCCAAAGCCAACTGCCTGAACACCTGCAAGAATAAACGCTTTCCCT
GA (SEQ ID NO: 121). Polypeptides encoded by this polynucleotide are also encompassed by the invention. Moreover, fragments and variants of these polynucleotides (such as, for example, fragments as described herein, polynucleotides at least 80%, 85%, 90%, 95%, 96%, 97%, 98%, or 99% identical to this polynucleotide and polynucleotides which hybridizes, under stringent conditions, to the polynucleotide, or the complement there of are encompassed by the invention. Antibodies that bind polypeptides of the invention are also encompassed by the invention. Polypeptides encoded by this polynucleotide are also encompassed by the invention.